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Agenda items 17 and 18

The situation in the Middle East

Question of Palestine

Security Council
Sixty-third year

Identical letters dated 14 May 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council

It is with grave concern that I write to inform you of yet another terrorist attack that occurred only a few hours ago, in which 34 Israeli civilians were injured by a Grad rocket launched by Palestinian terrorists from the Gaza Strip.

The Grad rocket crashed into a clinic located on the second floor of a crowded shopping mall in central Ashkelon, where innocent men, women and children were going about their daily lives. The attack caused terrible anxiety and panic. Three civilians were trapped under debris as a result of the attack and were evacuated in serious condition. An infant girl was evacuated with moderate wounds.

This is our third letter in less than a week informing you and the Security Council of Israeli casualties as a result of the constant and indiscriminate rocket fire from the Gaza Strip. Israel holds Hamas, as the ruling party, accountable for another vicious terrorist attack, which is in flagrant violation of international law and the most basic principles of humanitarian law.

The unremitting and indiscriminate rocket fire has levied an insufferable toll on the civilian population of southern Israel, triggering a severe humanitarian situation there. The safety and security of all citizens in our region will remain in peril so long as Palestinian terrorism continues unabated. Israel expects the international community to voice its strong condemnation of this attack. Israel will not stand idly by as its citizens are subjected to this constant terror, and reserves the right to defend itself, according to its inherent right under Article 51 of the Charter of the United Nations.

I should be grateful if you would have the present letter circulated as a document of the sixty-second session of the General Assembly, under agenda items 17 and 18, and of the Security Council.

(*Signed*) Daniel **Carmon**
Chargé d'affaires, a.i.

08-34027 (E) 150508

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Security Council

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Agenda item 17
The situation in the Middle East

Security Council
Sixty-third year

Identical letters dated 19 May 2008 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

On the instructions of my Government, I transmit to you herewith a statistical summary of Israeli violations from 1 to 14 May 2008 (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the sixty-second session of the General Assembly, under agenda item 17, and of the Security Council.

(*Signed*) Nawaf **Salam**
Ambassador
Permanent Representative

08-34766 (E) 210508 220508

Annex to the identical letters dated 19 May 2008 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

Subject: Israeli violations, acts of aggression and other activities from 1 to 14 May 2008

Air violations

On 1 May 2008, between 1103 hours and 1225 hours, two enemy Israeli military aircraft violated Lebanese airspace over Yarun in a northerly direction as far as Shikka and circled between Shikka and the South. They departed over Rumaysh.

On 2 May 2008, between 2300 hours and 2400 hours, an enemy Israeli reconnaissance aircraft overflew the Kafr Shuba area.

On 3 May 2008, between 1100 hours and 1135 hours, two enemy Israeli military aircraft violated Lebanese airspace over Rumaysh in an easterly direction as far as Yarun and circled over Rumaysh and Yarun. They departed over Yarun.

On 4 May 2008, between 1030 hours and 1110 hours, four enemy Israeli military aircraft violated Lebanese airspace over Dayr Mimas in a northerly direction as far as Tripoli and circled over all Lebanese regions. They departed over `Alma al-Sha`b.

Between 2045 hours and 2115 hours, enemy Israeli military aircraft overflew the Bint Jubayl area at high altitude.

On 5 May 2008, between 0700 hours and 0815 hours, an enemy Israeli reconnaissance aircraft overflew Jabal al-Rayhan.

Between 0855 hours and 1015 hours, an enemy Israeli reconnaissance aircraft overflew the Bint Jubayl and Tibnin areas.

Between 1220 hours and 1320 hours, an enemy Israeli reconnaissance aircraft overflew Jabal al-Rayhan.

Between 1915 hours and 2015 hours, enemy Israeli military aircraft and a reconnaissance aircraft overflew the Naqurah area at high altitude.

Between 2315 hours and 2345 hours, an enemy Israeli reconnaissance aircraft overflew the Naqurah area.

On 6 May 2008, between 0825 hours and 0835 hours, an enemy Israeli reconnaissance aircraft overflew the Naqurah area.

Between 1005 hours and 1115 hours, two enemy Israeli military aircraft violated Lebanese airspace over Dayr Mimas in a northerly direction as far as Shikka and circled over all Lebanese regions. They departed over `Alma al-Sha`b.

On 8 May 2008, between 0700 hours and 0720 hours, enemy Israeli military aircraft overflew the Bint Jubayl and Tibnin areas at varying altitudes.

Between 0530 hours and 1050 hours, an enemy Israeli reconnaissance aircraft overflew the Bint Jubayl and Tibnin areas.

On 10 May 2008, between 1105 hours and 1140 hours, two enemy Israeli military aircraft violated Lebanese airspace over Dayr Mimas in a northerly direction as far as Tripoli and circled over all Lebanese regions. They departed over the sea off Tripoli in the direction of Turkey.

Between 1155 hours and 1215 hours, two enemy Israeli military aircraft violated Lebanese airspace over the sea off Jubayl in an easterly direction as far as al-Harmal, circled between the Bekaa and the North, and then headed south as far as al-Naqurah. They departed over al-Naqurah.

Between 1915 hours and 1940 hours enemy Israeli military aircraft overflew the sea off Ras al-Naqurah and Tyre at high altitude.

On 11 May 2008, between 1035 hours and 1045 hours, two enemy Israeli military aircraft violated Lebanese airspace over `Alma al-Sha`b as far as Shikka. They departed over the sea off Shikka in the direction of Turkey.

Between 1105 hours and 1200 hours, two enemy Israeli military aircraft violated Lebanese airspace over `Alma al-Sha`b and circled over al-Damur and the southern regions. They departed over the sea off al-Naqurah.

Between 1210 hours and 1245 hours, two enemy Israeli military aircraft violated Lebanese airspace over `Alma al-Sha`b and circled over Beirut and the southern regions. They departed over the sea off al-Naqurah.

Between 1310 hours and 1400 hours, an enemy Israeli reconnaissance aircraft overflew the Naqurah area.

Between 1615 hours and 1700 hours, enemy Israeli military aircraft overflew the Bint Jubayl and Tibnin areas at varying altitudes.

Between 1730 hours and 2000 hours, an enemy Israeli reconnaissance aircraft overflew the Bint Jubayl and Tibnin areas.

Between 1940 hours and 1950 hours, enemy Israeli military aircraft overflew the Naqurah area.

Between 2100 hours and 2145 hours, an enemy Israeli reconnaissance aircraft overflew Tayr Harfa and Shama`.

Between 2330 hours and 2400 hours, an enemy Israeli reconnaissance aircraft overflew the Tyre area.

On 12 May 2008 between 0840 hours and 1100 hours, enemy Israeli military aircraft overflew the Naqurah and Bint Jubayl areas at varying altitudes.

Between 0940 hours and 0950 hours, an enemy Israeli reconnaissance aircraft overflew al-Naqurah at high altitude.

Between 1455 hours and 1610 hours, an enemy Israeli reconnaissance aircraft overflew the Tibnin and Bint Jubayl areas at high altitude.

Between 1915 hours and 2100 hours, an enemy Israeli reconnaissance aircraft violated Lebanese airspace over the sea off Tyre and circled over Tyre and east of Tyre. It departed over al-Naqurah.

Between 1745 hours and 2135 hours, an enemy Israeli reconnaissance aircraft violated Lebanese airspace over the sea off Tyre in an easterly direction as far as

west of al-Damur and circled over the sea off al-Damur, over Iqlim al-Kharub and over Sidon. It departed over al-Naqurah.

Between 1815 hours and 2135 hours, an enemy Israeli reconnaissance aircraft violated Lebanese airspace over the sea off al-Damur in an easterly direction and circled over the sea off al-Damur, and then over Iqlim al-Kharub. It departed over al-Naqurah.

On 13 May 2008, at 0935 hours, two enemy Israeli military aircraft violated Lebanese airspace over Kafr Kila in a northerly direction and circled over all Lebanese regions. They departed over `Alma al-Sha`b.

Between 1045 hours and 1340 hours, an enemy Israeli reconnaissance aircraft violated Lebanese airspace over the sea off Tyre in an easterly direction and circled over the South region between sea and land. It departed over the sea off Ras al-Naqurah.

On 14 May 2008, between 0700 hours and 0745 hours, an enemy Israeli reconnaissance aircraft overflew Jabal al-Rayhan.

Between 0900 hours and 1400 hours, enemy Israeli military aircraft overflew the Bint Jubayl and Tibnin areas and Lebanese territorial waters off al-Naqurah intermittently.

Between 1540 hours and 1630 hours, enemy Israeli military aircraft overflew the Tibnin and Bint Jubayl areas at moderately high altitude.

Between 1850 hours and 2325 hours, an enemy Israeli reconnaissance aircraft overflew Bint Jubayl and Tibnin.

Between 2010 hours and 2015 hours, enemy Israeli military aircraft overflew the Bint Jubayl area at moderately high altitude.

Acts of aggression in the field

On 1 May 2008, a group of cows belonging to the Israeli enemy crossed the withdrawal line as far as Birkat Ba`tha'il on the Lebanese side (opposite Kafr Shuba) in four groups as follows: eight cows entered at 1702 hours and departed at 1722 hours; four cows entered at 1730 hours and departed at 1745 hours; 12 cows entered at 1745 hours and departed at 1843 hours; and 14 cows entered at 1850 hours and departed at 1927 hours.

On 2 May 2008, between 1210 hours and 1908 hours, 60 cows belonging to the Israeli enemy crossed the withdrawal line to Birkat Ba`tha'il on the Lebanese side (opposite Kafr Shuba).

On 4 May 2008, at 1345 hours, an enemy Israeli foot patrol was spotted at position *shin*-11 opposite the 11th Brigade's observation post at Dahr al-`Asi (Mays al-Jabal). It took photographs of the post's personnel from a distance of approximately 700 metres and departed at 1355 hours.

Between 1510 hours and 1620 hours, 12 cows belonging to the Israeli enemy crossed the withdrawal line to Birkat Ba`tha'il on the Lebanese side (opposite Kafr Shuba).

On 6 May 2008, between 1410 hours and 1424 hours, 15 cows belonging to the Israeli enemy crossed the withdrawal line to Birkat Ba`tha'il on the Lebanese side (opposite Kafr Shuba).

On 7 May 2008, at 1800 hours, inside occupied Palestinian territory near border point BP37, an enemy Israeli patrol consisting of three Hummer jeeps halted. Two soldiers disembarked and made rude gestures towards personnel manning the Lebanese Army's `Adaysah roadblock (*lam mim* 11). This occurred in the presence of an Indonesian contingent patrol. When the roadblock personnel made an attempt to photograph them, the enemy patrol departed into Palestinian territory.

On 9 May 2008, at 1830 hours, inside occupied Palestinian territory opposite the town of Kafr Kila, an Israeli patrol consisting of two Hummer jeeps shouted foul language at automobiles passing on the Lebanese side, and then departed in the direction of the Metulla settlement.

On 10 May 2008, at 1923 hours, one cow crossed the withdrawal line near Birkat Ba`tha'il and returned at 1952 hours.

On 12 May 2008, at 1630 hours, inside occupied Palestinian territory opposite the town of Mays al-Jabal, three soldiers from an enemy Israeli patrol disembarked and proceeded to curse personnel at the Lebanese Army observation post in the aforementioned town and aim and cock their weapons at them for three minutes.

At 1130 hours, near the Fatimah Gate, while Mr. Khidr Shumar was dismantling a roadside guard rail (for the municipality of Kafr Kila), an enemy Israeli patrol halted on the opposite side in occupied Palestinian territory and four soldiers disembarked. They proceeded to direct foul language at Mr. Shumar and then continued on their way.

At 1535 hours, 15 cows crossed the withdrawal line to Birkat Ba`tha'il (Kafr Shuba) and departed at 1600 hours.

On 13 May 2008, at 0840 hours, 15 cows crossed the withdrawal line to Birkat Ba`tha'il (Kafr Shuba) and departed at 0925 hours.

At 1200 hours, on the outskirts of the town of al-Qahwanah east of the Radar outpost inside Lebanese territory, while Mr. Abdullah Zahra was herding livestock, enemy Israeli forces kidnapped him from inside Lebanese territory approximately 75 metres from the line of withdrawal and led him into occupied territory where he was detained until 1830 hours.

Between 1925 hours and 1955 hours, 55 cows crossed the withdrawal line to Birkat Ba`tha'il (opposite Kafr Shuba). All of them departed at 2033 hours.

On 14 May 2008, at 1430 hours, in the Shahl area on the outskirts of the town of Shab`a, as a youth named Isma`il Zahra was herding livestock 100 metres from the line of withdrawal inside Lebanese territory, an enemy Israeli forces patrol 30 metres from the line of withdrawal inside occupied territory called to him and asked him to approach them. He fled in the direction of the town of Shab`a, at which point the enemy patrol fired approximately 10 rounds of light-weapons fire in the air. This caused the herd to scatter, and the animals that scattered into occupied territory were detained there for one and a half hours.

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Joint Inspection Unit

Report of the Joint Inspection Unit on the funding and staffing of the Office of the High Commissioner for Human Rights

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Joint Inspection Unit entitled "Funding and staffing of the Office of the High Commissioner for Human Rights" (JIU/REP/2007/8).

08-34739 (E) 290508

JIU/REP/2007/8

FUNDING AND STAFFING OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Prepared by

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Geneva 2007

United Nations

EXECUTIVE SUMMARY

Funding and staffing of the Office of the United Nations High Commissioner for Human Rights (OHCHR)

JIU/REP/2007/8

Objective

To help improve the efficiency and effectiveness of the work of the Office of the United Nations High Commissioner for Human Rights (OHCHR) by:

- Recommending adequate mechanisms for the involvement of Member States in the review of the draft programme of work and associated budget requirements for human rights activities, in light of the priorities established by the Human Rights Council, as well as for monitoring the use of funds and the implementation of the programme of work of OHCHR;

- Reviewing the current measures in place and, where appropriate, recommending more adequate measures to redress the imbalance in the geographical distribution of the professional and higher staff within OHCHR.

Main findings and conclusions

- In response to various recommendations contained in previous reviews of oversight

bodies, OHCHR has recently undertaken a number of actions to improve its management and organization. However, it should continue its efforts and undertake measures to link the budget and planning process to results and managerial performance in line with a results based management approach, as part of a more rigorous monitoring and evaluation framework **(see recommendation 1)**.

- The Human Rights Council is not involved in the review of the programme of work and the associated budget requirements for human rights activities at the draft stage, and is not able to provide advice and comments to the United Nations High Commissioner for Human Rights (the High Commissioner).

- One of the eight funds managed by OHCHR, the Trust Fund for the Support to the Activities of OHCHR, represents 78 per cent of the total extrabudgetary resources of OHCHR. However, this Fund does not have an appropriate board of trustees to review and approve the projects and activities to be financed by it and approval is granted solely by an internal body consisting of senior managers and chaired by the Deputy High Commissioner for Human Rights **(see recommendation 3)**.

- OHCHR's total resource requirements for the biennium 2006-2007 are estimated at US$ 265.3 million. Of this sum, 35.3 per cent comes from the United Nations regular budget, while 64.7 per cent is projected to be funded from extrabudgetary resources.

- Although the Member States at the 2005 World Summit called for a doubling of

OHCHR's regular budget resources over the next five years, concerns have been raised that this agreed budget target would not be reached. Additionally, OHCHR depends heavily on the growing voluntary contributions to fund core and mandated activities, which are often subject to certain conditionalities imposed by Member States.

- The dependency on voluntary contributions is compounded by the reliance on a relatively small number of donors. In 2006, 97.6 per cent of pledged voluntary contributions came from 20 major donors and 80.8 per cent came from just 10 countries. There is a need to broaden the donor base by encouraging non-traditional donor countries to make contributions **(see recommendation 5)**.

- A large percentage of the funding of OHCHR is earmarked by donors for specific purposes. Although the proportion of earmarked funding has decreased in recent years, it represented 63 per cent of the total funds from the top 20 donors in 2006.

- There is currently no mechanism for Member States to review or approve individual voluntary contributions made to OHCHR, nor are they informed of the conditions proposed when individual contributions are being made. The Human Rights Council should be informed of such contributions above a significant level, as well as the conditionalities that may be attached to them **(see recommendation 7)**.

- The issue of the imbalance in the geographical distribution of the staff of OHCHR was repeatedly raised by the former Commission on Human Rights and its successor

the Human Rights Council as a matter of serious concern. Despite the two previous Joint Inspection Unit (JIU) reports containing specific recommendations regarding this matter, as well as the recently reported measures to address the imbalance, the situation has not significantly improved when looking at the recent figures for professional staff.

- While the number of professional regular staff increased by 174 per cent between 2005 and 30 June 2007, staff from the Group of Western European and other States account for 61.7 per cent and remains the Group with the highest representation for many years. Although figures as of 30 June 2007 show a slight improvement compared to previous years, the serious and continuing imbalance in the geographical distribution of the professional and higher staff could result in diminishing the effectiveness and credibility of the work of OHCHR if it is perceived to be culturally biased and unrepresentative of the United Nations as a whole.

Recommendations for consideration by legislative organs

- **The General Assembly should instruct the High Commissioner to seek the advice and the views of the Human Rights Council in the preparation of the proposed strategic framework and the associated budget requirements for human rights activities, prior to the finalization of these documents (recommendation 2).**

- **The General Assembly should establish a reasonable balance between the regular budget of OHCHR and the voluntary contributions that could be accepted in support of human rights related activities (recommendation 4).**

- **The General Assembly should instruct OHCHR to strengthen its efforts to convince donors to continue to reduce earmarked funding or enhance the flexibility of funds, applying principles such as the Good Humanitarian Donorship principles (recommendation 6).**

- **The General Assembly should introduce a temporary maximum level on the recruitment of new professional staff (between the P-1 and P-5 levels) to OHCHR from overrepresented regions, until such time as a geographical balance has been reached. (recommendation 8).**

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ABBREVIATIONS

ACABQ	Advisory Committee on Administrative and Budgetary Questions
CPC	Committee for Programme and Coordination
EE	Eastern European States
JIU	Joint Inspection Unit
LA+C	Latin American and Caribbean States
NCE	National Competitive Examination
NGOs	Non-governmental organizations
OHCHR	Office of the United Nations High Commissioner for Human Rights
OIOS	Office of Internal Oversight Services
TF	Trust fund
UNICs	United Nations information centres
UNOG	United Nations Office at Geneva
VF	Voluntary fund
WEO	Western European and other States

I. INTRODUCTION

1. As part of its programme of work for 2007, the Joint Inspection Unit (JIU) conducted a review of funding and staffing of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

2. The objective of the review was to help improve the efficiency and effectiveness of the work of OHCHR by:

- Recommending adequate mechanisms for the involvement of Member States in the review of the draft programme of work and associated budget requirements for human rights activities, in light of the priorities established by the Human Rights Council, as well as for monitoring the use of funds and the implementation of the programme of work;

- Reviewing the current measures in place and, where appropriate, recommending more adequate measures to redress the imbalance in the geographical distribution of professional and higher staff within OHCHR.

3. The General Assembly, by its resolution 61/159, requested JIU to assist the Human Rights Council to monitor systematically the implementation of that resolution (referring to both contributions and geographical distribution of staff), inter alia, by submitting to the Human Rights Council a comprehensive follow-up report on the implementation of the recommendations contained in the reports previously carried out by JIU at the request of the Commission on Human Rights. These recommendations were the result of two JIU reviews of the functioning of OHCHR, concentrating on managerial issues. As a result of the work carried out in conducting those reviews, the Inspectors found that there were still some issues which deserve the

II. PROGRAMME MANAGEMENT

A. Strengthened management and planning

9. In response to various recommendations contained in previous reviews of oversight bodies, OHCHR has recently undertaken a number of actions to strengthen its management and organization.

10. The report of the Office of Internal Oversight Services (OIOS) on the management review of OHCHR[1] called for the creation of an OHCHR-wide programme planning, monitoring and evaluation function as well as the preparation of a comprehensive and detailed strategy, from which the medium- and longer-term tangible objectives of the organizational units and operational activities of OHCHR would be derived. In response to the OIOS recommendations and in an effort to improve management and planning at OHCHR, a policy, planning, monitoring, and evaluation section was created in 2006. The new section helps to ensure that the strategic vision of OHCHR is translated into concrete priorities and operational plans, and that effective monitoring and evaluation of impact is conducted. The section is also responsible for developing the Strategic Management Plan,[2] serving as a planning and fund-raising tool, presenting OHCHR's needs and outlining proposed activities to all Member States.

11. The Plan of Action,[3] released in May 2005, presents a strategic vision of OHCHR for 2006-2011 and the biennial Strategic Management Plan, issued in February 2006, introduces the means by which OHCHR aims to operationalize this

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[1] A/57/488.
[2] High Commissioner's Strategic Management Plan 2006-2007.
[3] A/59/2005/Add.3.

vision and follows the five priority areas as described in the Plan of Action. The Strategic Management Plan sets out key objectives, outputs, expected accomplishments, and the indicators by which performance would be measured. The 2006 Annual Report reviews the implementation of the 2006-2007 Strategic Management Plan during the first half of the biennium, using the performance indicators set out in the document to gauge progress.

12. The 2006 Annual Report acknowledges that while the performance indicators contained in the Strategic Management Plan have been very useful in having OHCHR staff focusing on the need to monitor and measure progress against results, more work is required to improve and refine some of the indicators for future use, and to put in place the necessary data-collection processes to ensure accurate reporting. Some of the current indicators, such as the level of awareness and the understanding of human rights mechanisms by civil society actors, require surveys to be conducted, if they are to be applied satisfactorily.

13. The Inspectors believe that some progress has been made by OHCHR to improve its management and planning. However, it should continue the recently initiated efforts to improve results based management (including performance monitoring) and evaluation.

Recommendation 1

OHCHR should undertake deliberate measures to link the budget and planning process to results and managerial performance, in line with a results based management approach, as part of a more rigorous monitoring

and evaluation framework.

B. Involvement of the Human Rights Council

14. The relationship between the Human Rights Council and OHCHR was confirmed in General Assembly resolution 60/251, paragraph 5: "Decides that the Council shall, inter alia: (g) Assume the role and responsibilities of the Commission on Human Rights relating to the work of the Office of the United Nations High Commissioner for Human Rights, as decided by the General Assembly in its resolution 48/141 of 20 December 1993."

15. The Commission on Human Rights was invited at its 60th session (April 2004) to review the proposed strategic framework for 2006-2007 (without budget requirements) and submit its comments to the Secretary-General. The proposed strategic framework was submitted by the Secretary-General to the Committee for Programme and Coordination (CPC) for consideration and referral to the Third and the Fifth Committees of the General Assembly at its 59th session.[4] However, the proposed strategic framework for the biennium 2008-2009, submitted to the General Assembly in 2006,[5] was not reviewed by the Human Rights Council.

16. The approval of the OHCHR budget and its oversight remain within the exclusive authority of the General Assembly and its administrative, budgetary and

[4] A/59/6 (Prog. 19).
[5] A/61/6 (Prog. 19).

financial mechanisms. These include the Advisory Committee on Administrative and Budgetary Questions (ACABQ) and the Fifth Committee, which approves the budget. The Council is not involved at any stage in the preparation of the proposed OHCHR programme budget. Therefore, the Council is neither made aware of the specific resources required for the projects and activities proposed by OHCHR, nor does the Council have an opportunity to review the adequacy of these resources.

17. In order to ensure transparent and strategic priority-setting and improve financial planning of human rights activities, the Inspectors believe that the Human Rights Council should be mandated to be involved in the review of the programme of work and the associated budget requirements for human rights activities at the draft stage, and to provide its advice and comments to the High Commissioner prior to the official submission to the CPC, ACABQ, and the Third and the Fifth Committees.

Recommendation 2

The General Assembly should instruct the High Commissioner to seek the advice and the views of the Human Rights Council in the preparation of the proposed strategic framework and the associated budget requirements for human rights activities, prior to the finalization of these documents.

C. Administration and management of trust funds

18. OHCHR has delegated authority for the management of the eight existing voluntary or trust funds. Project documents are produced for each project under the trust funds covering the biennium in the context of the OHCHR Strategic Management Plan. Annual cost plans are prepared under each project and submitted to the United Nations Office at Geneva (UNOG) by 1 November of the preceding year in conformity with ST/AI/284 and ST/SGB/188 covering the establishment and management of trust funds. OHCHR requests allotments from UNOG in accordance with the annual cost plans and relevant revisions, and upon receipt of sufficient cash as voluntary contributions under the project within the trust fund. Table 1 shows an overview of the total voluntary contributions made to the eight OHCHR voluntary or trust funds.

Table 1: Total voluntary contributions of OHCHR specified by voluntary (VF) or trust fund (TF) from 2002 to 2007 (in US$)

Voluntary or Trust Fund	2002	2003	2004	2005	2006	2007[14]
1. VF for Victims of Torture	7,423,147	7,174,871	8,114,169	10,134,669	10,446,483	8,408,301
2. TF for Contemporary Forms of Slavery	288,392	176,582	338,869	808,138	256,233	82,336
3. VF for Indigenous Populations	285,553	179,749	227,473	448,533	466,092	285,688
4. VF for Int'l Decade of the World's Indigenous People	230,145	232,646	220,558	9,534	0	0
5. TF for action to combat Racism & Discrimination	1,128,713	97,783	142,484	544,413	3,348	2,238
6. VF for Advisory Services & Technical Assistance in Human Rights	7,864,932	9,247,529	10,312,665	7,989,220	4,953,059	4,751,739

7. TF for Human Rights Education in Cambodia	982,926	936,043	362,571	32,263	492,834	6,994
8. TF for Support Activities of OHCHR	23,292,607	27,985,732	33,017,810	48,381,020	69,736,100	61,830,247
Total Voluntary Contributions	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

[a] *Received as of 31 July 2007*

Source: OHCHR responses to questionnaires dated 15 March 2007 and 31 August 2007.

19. The Inspectors note with concern that there is neither intergovernmental involvement in the process of approval of the contributions made to the OHCHR voluntary or trust funds, nor in the review of the conditionalties (if any) attached to each contribution and the review of the activities to be carried out using these funds.

20. The majority of the OHCHR trust funds and voluntary funds have a Board of Trustees, which approves the cost plan covering projects financed from the fund in accordance with its internal guidelines. The Board Members of these trust funds are appointed by the Secretary-General (i.e. neither the Human Rights Council nor other organs representing Member States are involved in this process) and consist of international experts or eminent persons. The Secretary of the Board of Trustees, who is a staff member of OHCHR, reviews the recommendations of the Board and provides advice to the High Commissioner, who approves recommendations of the Board on behalf of the Organization. The Board of Auditors conducts audits of the OHCHR trust funds, but these audits are generally limited to observations with respect to the efficiency of the financial procedures, the accounting system, and the internal financial controls, and may not address any substantive issues.

21. The Trust Fund for the Support to the Activities of OHCHR has a different project proposal and approval process, compared to the other funds. This fund was established by the Secretary-General in 1993 to cover miscellaneous contributions intended to support the substantive work programme of OHCHR and to supplement existing regular budget resources. The resources of this fund include earmarked and unearmarked contributions approved by the United Nations Controller in accordance with the Financial Regulations and Rules of the United Nations. Within the context of the Strategic Management Plan, project documents are formulated by programme managers and reviewed and approved by the OHCHR Programme and Budget Review Board, which is an internal body consisting of senior managers and chaired by the Deputy High Commissioner. The total extrabudgetary income of this fund in 2006 was US$ 69.7 million, which represents 78 per cent of the total extrabudgetary

resources received by OHCHR. While understanding that the activities financed from the fund are core activities that complement those financed from the programme budget approved by the General Assembly, the Inspectors regret that the Trust Fund for the Support to the Activities of OHCHR does not have an external Board or a Board of Trustees, to review and approve the projects and activities that are financed by the fund.

Recommendation 3

OHCHR should establish an appropriate Board of Trustees for the Trust Fund for the Support to the Activities of OHCHR, which would review and approve the specific projects and activities to be financed by the Fund.

III. RESOURCES

22. Although in 2005, the General Assembly reviewed a supplementary budget to support recommendations made in its resolution 60/1 on the 2005 World Summit Outcome and called for a doubling of OHCHR's regular budget resources over the next five years (with a view to progressively setting a balance between regular budget resources and voluntary contributions), OHCHR is still heavily dependent on voluntary contributions provided by some Member States. According to the proposed programme budget for the biennium 2008-2009,[6] OHCHR's total resource requirements for 2006-2007 are estimated at US$ 265.3 million (revised appropriation). Of this sum, US$ 93.5 million, or 35.3 per cent, comes from the United Nations regular budget, while US$ 171.8 million, or 64.7 per cent, is projected to be funded from extrabudgetary resources.

A. Regular budget

23. Table 2 indicates that the regular budget resources for the biennium 2006-2007 for human rights related activities have increased by 48.8 per cent over the biennium 2004-2005. The proposed programme budget for the biennium 2008-2009 shows a further increase of 84.4 per cent over the biennium 2004-2005 and represents an increase of 23.9 per cent over the 2006-2007 appropriation.

24. However, concerns were expressed by OHCHR that the agreed target set by Member States in 2005 to double its regular budget resources over the next five years would not be reached. These concerns relate to how such a doubling of resources

[6] A/62/6 (Sect. 23) and A/62/6 (Sect. 22).

would to be handled and the decision on the precise baseline against which future increases of the regular budget would be measured.[7] The ACABQ, in its report on the proposed programme budget for human rights for the biennium 2008-2009,[8] recommends that the General Assembly consider adopting the revised appropriation for 2004-2005 as the baseline for the agreed doubling of the regular budget resources. Another concern of OHCHR is linked to the de facto zero real growth approach for the United Nations regular budget, which might prevent the agreed doubling of OHCHR regular budget resources. The Inspectors fully share these concerns and suggest that the General Assembly, through the Fifth Committee, should find ways to allow the growth of OHCHR regular budget resources, as per the agreed targets of the 2005 World Summit Outcome, which is essential to strengthening OHCHR to enable it to effectively carry out its mandate in order to respond to the broad range of human rights challenges facing the international community.

Table 2: Regular budget for human rights activities (in US$)

	2002-2003 [a]	2004-2005 [b]	2006-2007 [b]	2008-2009 [c]
Regular budget:				
Section 23 (Human Rights)	48,149,800	59,908,000	90,554,000	112,835,400
Section 22 (Technical Cooperation)	2,779,400	2,964,100	2,994,500	3,088,800
	50,929,200	62,872,100	93,548,500	115,924,200
Percentage increase over previous biennium	-	23.4%	48.8%	23.9%

All figures include the Committee on Missing Persons in Cyprus

[a] Expenditure figures (source: A/60/6 (Sect. 23) and A/60/6 (Sect. 22))

[b] Revised 2006-2007 appropriation (source: A/62/6 (Sect. 23) and A/62/6 (Sect. 22))

[c] Proposed programme budget (source: A/62/6 (Sect. 23) and A/62/6 (Sect. 22))

[7] A/60/7/Add.13, para. 43.
[8] A/62/7 (Sect. 23).

B. Extrabudgetary resources

25. In addition to regular budget funding, OHCHR also receives a large amount of funding through voluntary contributions from Governments, non-governmental organizations (NGOs), foundations, and private donors. The manner in which these contributions are provided has a great impact on OHCHR's ability to implement activities, particularly since it can only spend money that has already been deposited. Contributions made in a predictable, timely, and flexible manner help OHCHR to plan activities and to use its financial resources effectively and efficiently. Additionally, OHCHR is heavily dependant on the growing voluntary contributions to fund core and mandated activities that should remain within the regular budget. The regular budget covers only a third of total operating expenses, with the bulk of the resources being used to fund expenditure at headquarters and discharging the High Commissioner's mandated responsibilities towards the Human Rights Council, the treaty bodies and the special procedures. The field operations of OHCHR rely heavily on extrabudgetary funding and approximately 50 per cent of all extrabudgetary resources received in 2006 were spent in field offices, with the rest spread among the other areas of work, in most cases supplementing funds available under the regular budget.

26. Table 3 provides comparative figures for regular and extrabudgetary resources from 2002-2003 to 2008-2009. This table shows that the dependency on extrabudgetary resources has continued over recent years, representing almost 65 per cent of the OHCHR budget estimate for the 2006-2007 biennium. As a comparison,

the percentage of extrabudgetary resources represented only 44 per cent for the 1996-1997 biennium.[9]

27. The Inspectors are concerned that such a crucial activity as human rights, which is one of the core mandates of the United Nations, is increasingly financed through voluntary contributions and subject to certain conditionalities (see paragraph 29 for more information). The percentage of estimated extrabudgetary resources (63 per cent) for the proposed budget for the biennium 2008-2009 has hardly decreased, compared to the previous biennium 2006-2007, and it is still subject to agreement by Member States to substantively increase the regular budget for that period.

Recommendation 4

The General Assembly should establish a reasonable balance between the regular budget of OHCHR and the voluntary contributions that could be accepted in support of human rights related activities.

[9] JIU/REP/2003/6.

Table 3: Total resources for human rights activities (in US$)

Total regular budget [a]	50,929,200 [b]	62,872,100 [b]	93,548,500 [c]	115,924,200 [d]
Extrabudgetary resources	74,370,400 [b]	112,765,500 [b]	171,770,200 [e]	196,518,600 [e]
Percentage extrabudgetary resources/Total	59.35%	64.20%	64.74%	62.90%

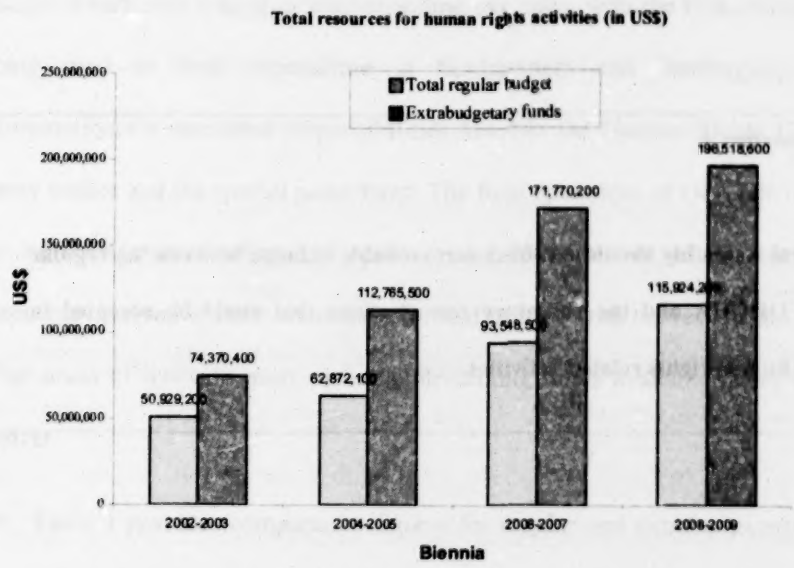
[a] *Includes Sections 22 and 23 (source: A/60/6 (Sect. 23) and A/60/6 (Sect. 22)).*

[b] *Expenditure figures (source: A/62/6 (Sect. 23) and A/62/6 (Sect. 22)).*

[c] *Revised 2006-2007 appropriation (source: A/62/6 (Sect. 23) and A/62/6 (Sect. 22)).*

[d] *Proposed programme budget (source: A/62/6 (Sect. 23) and A/62/6 (Sect. 22)).*

[e] *Estimates (source: A/62/6 (Sect. 23) and A/62/6 (Sect. 22)).*



28. The dependency on voluntary contributions is compounded by the reliance on a relatively small number of donors. In 2006, 97.6 per cent of pledged voluntary

contributions came from 20 major donors and 80.8 per cent came from just ten countries.[10] In 2006, OHCHR secured US$ 85.3 million in voluntary contributions, accounting for more than two-thirds of overall income – an increase of US$ 17 million (or nearly 25 per cent) on the previous year. The Inspectors are of the opinion that OHCHR should increase its efforts to broaden its donor base by including and encouraging non-traditional donor countries to make contributions.

Recommendation 5

In order to broaden the donor base, the High Commissioner for Human Rights should increase the dialogue with representatives from non-traditional donor countries, with a view to expanding their participation in financing human rights activities.

29. In 2006, 63 per cent of the funds from the top 20 donors were earmarked. However, the proportion of funding unearmarked by donors for specific purposes has risen steadily in recent years, from approximately 12 per cent in 2003 to 20 per cent in 2004, 25 per cent in 2005 and 37 per cent in 2006. Despite this recent positive trend, earmarked funding could limit OHCHR's capacity to ensure that funds are utilized in a sound and cost-effective manner. The Commission on Human Rights and its successor the Human Rights Council have called in several resolutions[11] upon donors to consider providing unearmarked contributions to the extent possible. The Inspectors regret that such a large percentage of the funding is still earmarked and

[10] OHCHR Annual Report 2006.
[11] Commission on Human Rights resolutions 1999/54, 2000/1, 2002/2, 2004/2 and Human Rights Council resolution 4/6.

believe that OHCHR should strengthen its efforts to convince donors to continue reducing earmarked funding and/or enhance the flexibility of funds, applying principles such as the Good Humanitarian Donorship principles.[12]

Recommendation 6

The General Assembly should instruct OHCHR to strengthen its efforts to convince donors to continue to reduce earmarked funding or enhance the flexibility of funds, applying principles such as the Good Humanitarian Donorship principles.

30. As stated before, there is no mechanism for Member States to review or approve individual voluntary contributions made to OHCHR, nor are they informed of the conditions proposed when individual contributions are being made. An estimate of the totality of the proposed use of voluntary contributions is presented for the information of Member States in the context of the Strategic Management Plan and in the OHCHR annual reports. Conditions imposed on proposed voluntary contributions are only reviewed for their financial suitability, in consultation with UNOG, which has sole delegated authority from the Controller of the United Nations to accept voluntary contributions and approve contribution agreements on behalf of OHCHR. The Inspectors are of the view that voluntary contributions, as well as the conditionalities

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[12] In 2003, a meeting held in Stockholm, brought together donor countries, United Nations agencies, NGOs, the International Red Cross and Red Crescent Movement and other organizations involved in humanitarian action, which reviewed past achievements as well as current challenges in global humanitarian action. It agreed on a set of 23 principles and good practice of humanitarian donorship.

that may be attached to them, should be reviewed for acceptance by the Member States. This is also in compliance with the numerous resolutions of the Commission on Human Rights and the Human Rights Council[13] in which they request the High Commissioner to provide all States with information on voluntary contributions, including their share in the overall budget of the human rights programme, and their allocation.

Recommendation 7

The High Commissioner for Human Rights should inform the Human Rights Council of the voluntary contributions, which are received by OHCHR, their allocation, as well as the conditionalities that may be attached to them.

[13] Commission on Human Rights resolutions 1997/76, 1999/54, 2000/1, 2002/2, 2004/2 and Human Rights Council resolution 4/6.

IV. HUMAN RESOURCES MANAGEMENT

A. Background

31. The issue of the imbalance in the geographical distribution of professional and higher staff was repeatedly raised by the Commission on Human Rights as a matter of serious concern. Requests to correct this imbalance were conveyed by the Commission through several resolutions adopted after 1997, when the current arrangements for OHCHR were introduced.

32. The Commission on Human Rights, in its resolution 2002/80, requested JIU to undertake a comprehensive review of the management and administration of OHCHR, in particular with regard to its impact on recruitment policies and the composition of the staff. The JIU report[14] highlighted several areas requiring improvement and presented proposals aimed at addressing the situation. In his comments,[15] the Secretary-General noted that the best course of action to implement the recommendations would be determined in consultation with the Office of Human Resources Management. The General Assembly, in its resolution 59/266, noted that JIU would submit a follow-up report.

33. The JIU report on follow-up to the management review of OHCHR was transmitted to the General Assembly in a note by the Secretary-General.[16] It recommended that the Secretariat should take measures to consider the specific situation of unrepresentation and underrepresentation in OHCHR when organizing

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[14] A/59/65-E/2004/48.

[15] A/59/65/Add.1-E/2004/48/Add.1.

[16] A/61/115.

specialized competitive human rights examinations and to prepare an action plan aimed at reducing the current imbalance in OHCHR's geographical distribution. JIU recognized that real change would take place over time, but called on OHCHR to reverse the current trend of increasing recruitment from overrepresented regions. The Secretary-General in his comments[17] agreed that further efforts are needed to address the issue of geographical distribution, and noted that steps are being undertaken to improve the situation in OHCHR but that their impact would be tangible only in the medium term.

34. In its resolution 61/159, the General Assembly regretted that efforts to address the imbalance regarding the regional geographical diversity of the staff of OHCHR had not resulted in a significant improvement. It noted the low representation from the regional groups of African, Asian, Eastern European, and Latin American and Caribbean States in the professional and higher staff of OHCHR. The Assembly decided, inter alia, to allow, in the effort to redress the specific geographical imbalance of OHCHR, the establishment of a temporary mechanism whereby recruitment of staff at the P-2 level would not be restricted to successful candidates from national competitive examinations (NCEs).

B. Measures to address the imbalance in the geographical distribution of the staff

[17] A/61/115/Add.1.

35. To address the imbalance in the geographical distribution of the staff of OHCHR, a report[18] with proposed measures was presented by the Secretary-General, as requested by the General Assembly in resolution 61/244.

36. Measures which are reported to be implemented by OHCHR include among others: offering NCEs to nationals of unrepresented and underrepresented Member States; facilitating the timely marking of the 2008 human rights NCE; widening the pool of qualified candidates; advertising posts on the United Nations Secretariat Galaxy e-staffing system, in international periodicals, and through mailing lists, etc. OHCHR has also introduced an internal strategy aimed at improving geographical diversity.

37. An additional measure includes, in accordance with General Assembly resolution 61/159, the establishment of a temporary mechanism that would allow OHCHR to recruit candidates at the P-2 level from sources other than the NCE roster. However, the Inspectors would like to stress (as they already did in JIU report JIU/REP/2006/3) that while in the long run the NCE may help to gradually improve the geographical distribution of staff at the entry level, on its own the NCE is not sufficient to significantly improve the overall situation.

38. Additionally, the internal action plan and strategy that addresses the issue of geographical distribution, has shown few results so far. The report of the High Commissioner on the composition of the staff of OHCHR, submitted to the Council in

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[18] A/61/823.

February 2006,[19] outlines the Commissioner's recruitment strategy. The reports states that recruitment at the P-3 to D-1 level is somehow limited by the United Nations Secretariat staff selection system. Posts at the P-3 level are normally reserved for internal candidates, which complicates external recruitment, and for posts at the P-4 to D-1 levels, a balance needs to be found between external recruitment and internal promotion. The report also explains that between June 2005 and February 2006, a total of 120 short-term posts were regularized, ending the practice of employing long-serving staff on short-term contracts (120 vacancy announcements were created and processed). Evidently, through this practice, the imbalance in the geographical distribution of staff has continued, as most of these temporary posts were occupied by nationals from overrepresented countries (see table 4). Therefore, the Inspectors believe that more can be done to identify and recruit candidates from underrepresented countries, using all possible means such as the network of United Nations information centres (UNICs) and United Nations resident coordinators and their knowledge of local NGOs and media.

Table 4: Geographical distribution of posts regularization exercise of February 2006

	Number of posts	Percentage
Africa	15	12.5%
Asia	9	7.5%
LA+C	15	12.5%
EE	7	5.8%
WEO	74	61.7%
TOTAL	**120**	**100%**

Source: OHCHR response to JIU questionnaire dated 31 August 2007.

39. As part of the programme budget for the biennium 2006-2007, the General Assembly has authorized 80 new (regular) posts at professional and higher level for OHCHR. It also anticipated that a significant number of new extrabudgetary posts

[19] E/CN.4/2006/103.

would be created during the biennium 2006-2007. The programme budget for the biennium 2008-2009[20] proposes another increase in posts, a total of 36 new (regular) posts of which 26 would be professional posts. The increase in posts in the current and next biennium should be seen as an opportunity to balance the geographical distribution of staff.

C. Composition of the staff

40. While welcoming the various measures proposed and already undertaken to address the imbalance in the geographical distribution of the staff, the Inspectors wish to stress that the imbalance in geographical distribution is still prominent, as shown in the following paragraphs and tables.

41. Despite the two previous JIU reports containing specific recommendations and the fact that the Office of Human Resources Management has recently made specific proposals with regard to a temporary mechanism for recruitment of staff at the P-2 and P-3 levels,[21] the situation has not significantly improved (see tables 5, 6 and 7).

42. The tables below show the numbers of OHCHR professional staff from 2005 to 30 June 2007, according to the five groups established by the General Assembly (African States, Asian States, Latin American and Caribbean States, Eastern European States and Western European and other States). Table 5 includes data on regular staff

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[20] A/62/6 (Sect. 23).

[21] Memorandum from the Assistant Secretary-General for Human Resources Management, 3 August 2007.

in the professional and higher categories[22] and table 6 includes data on non-regular staff in the professional and higher categories (i.e. staff holding appointments of less than one year; staff charged to general temporary assistance funds; staff employed in OHCHR field offices; and staff employed as project personnel). Table 7 shows combined figures for geographical distribution taking into consideration the total number of professional staff.[23]

43. Comparison of the figures from 2005 with June 2007 shows that the number of professional regular staff (see table 5) has increased by 174 per cent (from 106 to 290 persons), while the number of professional non-regular staff has decreased by 52 per cent (from 257 to 123 persons) (see table 6). This increase in regular staff is a result of an increase in the General Assembly's 2006-2007 budget cycle for OHCHR, which provided for 93 new regular budget posts, as well as the regularization of 120 short-term posts. Despite this increase in new regular posts, the professional staff is still unevenly distributed and the opportunity to fill these new posts to solve the geographical imbalance seems to have been forsaken. The most recent figures for regular staff, covering the period between 2006 and 30 June 2007, show a slight improvement with a drop of 5 per cent in number of staff from the Group of Western

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[22] As stated by OHCHR, regular staff have been regularly recruited through the formal United Nations recruitment system both to posts funded under the regular budget (i.e. posts subject to the United Nations system of geographic distribution) and under extrabudgetary resources (i.e. posts not subject to the United Nations system of geographic distribution).

[23] Figures taken from the reports of the High Commissioner on the composition of the staff of OHCHR, E/CN.4/2006/103 and A/HRC/4/93 and from OHCHR's official responses to JIU requests for data, on 15 March 2007 and 31 August 2007.

Europe and other States. However, this Group remains the Group with the highest representation for many years and represents 61.7 per cent of the total professional regular staff as of 30 June 2007.

44. The Inspectors also noted that the non-regular professional staff from the Group of Western European and other States showed an increase of 8 per cent in 2006 over 2005 (see table 6). Additionally, the percentage of professional staff from the African region actually decreased from 16 per cent in 2005 to 12.7 per cent in 2006. The most recent figures for June 2007 indicate a modest decline in the percentage of staff from the Group of Western Europe and other States.

45. When looking at the most recent figures, as of 30 June 2007, for the total number of professional staff, those from the Western European and other States account for 60.1 per cent, while the African States represent only 12.4 per cent, the Asian States 12.6 per cent, Latin American and Caribbean States 10.9 per cent and the Eastern European States 4.1 per cent. The Inspectors would like to reiterate once again the view that this serious and continuing imbalance in the geographical distribution of staff could result in diminishing the effectiveness and credibility of the work of OHCHR if it is perceived to be culturally biased and unrepresentative of the United Nations as a whole.

Table 5: Regular staff in the professional and higher categories

	No.	%	No.	%	No.	%
Africa	5	4.7%	27	10.3%	32	11%
Asia	19	17.9%	26	10.0%	32	11%
LA+C	9	8.5%	25	9.6%	35	12.1%
EE	5	4.7%	9	3.4%	12	4.1%
WEO	68	64.2%	174	66.7%	179	61.7%

Source: E/CN.4/2006/103, A/HRC/4/93, and OHCHR responses to JIU questionnaires dated 15 March and 31 August 2007.

Table 6: Non-regular staff in the professional and higher categories

	No.	%	No.	%	No.	%
Africa	41	16%	17	12.7%	19	15.4%
Asia	29	11.3%	21	15.7%	20	16.3%
LA+C	45	17.5%	13	9.7%	10	8.1%
EE	11	4.3%	4	3.0%	5	4.1%
WEO	131	51%	79	59%	69	56.1%

Source: E/CN.4/2006/103, A/HRC/4/93, and OHCHR responses to JIU questionnaires dated 15 March and 31 August 2007.

Table 7: Total professional staff

	No.	%	No.	%	No.	%
Africa	46	12.7%	44	11.1%	51	12.4%
Asia	48	13.2%	47	11.9%	52	12.6%
LA+C	54	14.9%	38	9.6%	45	10.9%
EE	16	4.4%	13	3.3%	17	4.1%
WEO	199	54.8%	253	64.1%	248	60.1%

Source: E/CN.4/2006/103, A/HRC/4/93, and OHCHR responses to JIU questionnaires dated 15 March and 31 August 2007.

46. While the Inspectors have taken note of the High Commissioner's report and the measures described in the previous section in a positive mann , they regret that the overall situation has not yet improved, as reflected in tables 5, 6 and 7 above and as confirmed by the geographical distribution of new recruitments between 2006 and 30 June 2007. Although the Inspectors recognize that real change would take place over time, they call upon the General Assembly to give clear instructions to the High Commissioner on the next steps to be taken to promptly and effectively address the ongoing imbalance in the geographical distribution of the professional staff of OHCHR. Additionally, JIU will continue to review and monitor systematically the geographical distribution of staff of OHCHR, as mandated by the Commission on Human Rights and the General Assembly.

Recommendation 8

The General Assembly should introduce a temporary maximum level on the recruitment of new professional staff (between the P-1 and P-5 levels) to OHCHR from overrepresented regions, until such time as a geographical balance has been reached.

ANNEX

Overview of action to be taken by participating organizations on JIU recommendations

JIU/REP/2007/8

		Intended impact	United Nations, its funds and programmes												Specialized agencies and IAEA												
			United Nations *	UNCTAD	UNODC	UNEP	UN-HABITAT	UNHCR	UNRWA	UNDP	UNFPA	UNICEF	WFP	OTHERS	ILO	FAO	UNESCO	ICAO	WHO	UPU	ITU	WMO	IMO	WIPO	UNIDO	UNWTO	IAEA
Report	For action		☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
	For information		☐	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒	☒
Recommendation 1		e	E																							
Recommendation 2		c	L																							
Recommendation 3		a	E																							
Recommendation 4		e	L																							
Recommendation 5		e	E																							
Recommendation 6		e	L																							
Recommendation 7		a	E																							
Recommendation 8		a	L																							

Legend: **L:** Recommendation for decision by legislative organ

E: Recommendation for action by executive head

■: Recommendation does not require action by this organization

Intended impact: **a:** enhanced accountability **b:** dissemination of best practices **c:** enhanced coordination and cooperation **d:** enhanced controls and compliance **e:** enhanced effectiveness **f:** significant financial savings **g:** enhanced efficiency **o:** other

* Covers all entities listed in ST/SGB/2002/11 other than UNCTAD, UNODC, UNEP, UN-HABITAT, UNHCR, UNRWA.

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Agenda item 70
Promotion and protection of human rights

Letter dated 19 May 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith the pronouncement in support of United Nations Working Group on Arbitrary Detention opinion No. 19/2005 of the Ruling Council of the Ibero-American Federation of Ombudsmen (FIO), representing 86 national, state, autonomous and provincial ombudsmen from Spain, Portugal, Andorra, Mexico, Puerto Rico, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Colombia, Venezuela (Bolivarian Republic of), Ecuador, Bolivia, Peru, Uruguay, Paraguay and Argentina (see annex). The pronouncement was adopted by the Ruling Council of FIO in Mexico on 27 March 2008.

Furthermore, I kindly request that the present letter and its annex be circulated as a document of the sixty-second session of the General Assembly, under agenda item 70.

(*Signed*) Ileana **Núñez Mordoche**
Ambassador
Chargé d'affaires a.i. of the Permanent Mission of Cuba
to the United Nations

08-35224 (E) 280508

Annex to the letter dated 19 May 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Cuba to the United Nations addressed to the Secretary-General

Pronouncement in support of United Nations Working Group on Arbitrary Detention opinion No. 19/2005

[Original: English and Spanish]

27 March 2008

The Ruling Council of the Ibero-American Federation Ombudsmen (FIO), representing 86 national, state, autonomous and provincial ombudsmen from Spain, Portugal, Andorra, Mexico, Puerto Rico, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, Colombia, Venezuela (Bolivarian Republic of), Ecuador, Bolivia, Peru, Uruguay, Paraguay and Argentina, in the pursuance of our duty of encouraging, improving and strengthening human rights culture and denouncing to international public opinion the violations of the human rights that, for their seriousness deserve it, met in Mexico on 27 March to declare the following:

1. Opinion No. 19/2005 of the United Nations Working Group on Arbitrary Detention, addressed to the Government of the United States of America, relating to the case of Antonio Guerrero Rodríguez, Fernando González Llort, Gerardo Hernández Nordelo, Ramón Labañino Salazar and René González Sehwerert, recognizes that the aforementioned country is a party to the International Covenant on Civil and Political Rights, and therefore the United States Government is obliged to honour it.

2. Regarding this subject, and in observance of resolutions 1991/42, 1997/50 and 2003/31 of the then Commission on Human Rights, the United Nations Working Group on Arbitrary Detention, in accordance with the articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights, observes the following:

(a) Following their arrest, and notwithstanding the fact that the detainees had been informed of their right to remain silent and had their defence provided by the Government, they were kept in solitary confinement for 17 months, during which time communication with their attorneys, access to evidence and, thus, possibilities to have an adequate defence were weakened;

(b) As the case was classified as one of national security, access by the detainees to the documents that contained evidence was impaired. The Government has not contested the fact that defence lawyers had very limited access to evidence because of this classification, negatively affecting their ability to present counter-evidence. This particular application of the legal provisions of the Classified Information Procedures Act, as done in this case and as the information available to the Working Group reveals, has also undermined the equal balance between the prosecution and the defence;

(c) The jury for the trial was selected following an examination process in which the defence attorneys had the opportunity and availed themselves of the procedural tools to reject potential jurors, and ensured that no Cuban-Americans served on the jury. Nevertheless, the Government has not denied that even so, the climate of bias and prejudice against the accused in Miami persisted and helped to present the accused as guilty from the beginning. It was not contested by the Government that one year later it admitted that Miami was an unsuitable place for a trial, where it proved almost impossible to select an impartial jury in a case linked with Cuba;

(d) The Working Group notes that it arises from the facts and circumstances in which the trial took place, and from the nature of the charges and the harsh sentences given to the accused, that the trial did not take place in the climate of objectivity and impartiality which is required in order to conclude that it was in observance of the standards of a fair trial, as defined in article 14 of the International Covenant on Civil and Political Rights, to which the United States of America is a party;

(e) This imbalance, taking into account the severe sentences received by the persons under consideration in this case, is incompatible with the standards contained in article 14 of the International Covenant on Civil and Political Rights that guarantee that each person accused of a crime has the right to exercise, in full equality, all appropriate facilities to prepare his defence.

The Working Group concludes that the three elements enunciated above, combined together, are of such gravity that they confer upon the deprivation of liberty of these five persons an arbitrary character.

In the light of the preceding, the Working Group issues the following opinion:

1. The deprivation of liberty of Antonio Guerrero Rodríguez, Fernando González Llort, Gerardo Hernández Nordelo, Ramón Labañino Salazar and René González Sehweret is arbitrary, being in contravention of article 14 of the International Covenant on Civil and Political Rights, and corresponds to category III of the applicable categories examined in the cases before the Working Group.

2. Having issued this opinion, the Working Group requests the Government to adopt the necessary steps to remedy the situation, in conformity with the principles stated in the International Covenant on Civil and Political Rights.

The above opinion was adopted on 27 May, 2005.

The members of FIO recognize that:

1. In accordance with what is established by article 14 of the International Covenant on Civil and Political Rights: All persons shall be equal before the courts and tribunals. Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law, in the determination of any criminal charge against him, or of his rights and obligations in a suit at law.

2. It is necessary to remember that everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law and to be tried without undue delay, to be tried in his presence, and to defend himself in person or through legal assistance of his own choosing.

3. Everyone convicted of a crime shall have the right to have his conviction and sentence reviewed by a higher tribunal according to law.

4. Likewise, and in accordance with article 18 of the abovementioned Covenant, everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

5. Also, article 19 of this international document establishes that everyone shall have the right to hold opinions without interference and the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

In the light of the preceding, the FIO Ruling Council resolved:

1. To recommend and insist on full compliance with opinion No. 19/2005 of the United Nations Working Group on Arbitrary Detention in view of the fact that all people are always equal before the law and have, without distinction, right and equal protection of the law. Everyone has the right to equal protection against any discrimination and against any provocation for such discrimination.

2. Therefore, a fair and expedited trial is sought for Antonio Guerrero Rodríguez, Fernando González Llort, Gerardo Hernández Nordelo, Ramón Labañino Salazar and René González Sehwerert under the laws of the United States and the international instruments signed and ratified by that country.

3. Finally, it is sought that these five imprisoned people may unite with and be visited by their family members regardless of their condition.

FIO Ruling Council

Omar Cabezas Lacayo,
FIO President and Nicaragua Ombudsman

Beatriz Merino Lucero, Peru Ombudsman
Manuel María Páez Monges, Paraguay Ombudsman
Enrique Múgica Herzog, Spain Ombudsman
Carlos López Nieves, Puerto Rico Ombudsman
Óscar Humberto Herrera López, President of the Nayarit Commission of Human Rights, Mexico

United Nations A/62/847

General Assembly

Distr.: General
27 May 2008
English
Original: Spanish

Sixty-second session
Agenda item 113 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of fifteen members of the Human Rights Council

Letter dated 23 May 2008 from the Permanent Representative of Spain to the United Nations addressed to the President of the General Assembly

I have the honour to refer to your letter of 22 May providing notification of errors made by the Secretariat in establishing the voting record of the election to fill the two seats on the Human Rights Council allocated to the Group of Western European and other States, which had taken place in the General Assembly on 21 May 2008, as read out at the plenary meeting of the General Assembly on the same day. According to the information now received from the Secretariat, the number of abstentions had been reported as only one, instead of ten, and the number of States voting had been reported as 182 rather than 189.

Despite the errors indicated and the procedure by which they were detected, Spain has no intention of challenging the results of the vote, having already expressed, and wishing to reiterate, its congratulations to its friends and partners France and the United Kingdom of Great Britain and Northern Ireland on their election, and firmly believing that they will work constructively in the Council to promote and protect human rights. In pursuit of that aim, Spain will lend them, and the members of the Council as a whole, its full support.

These comments notwithstanding, and in order to give the General Assembly the respect due to it, Spain, as a Member State, wishes to express its deep concern at the manner in which the votes of the Member States were counted and the relevant voting record was established.

It is surprising that errors as significant as those acknowledged in your letter of 22 May should have been made in preparing the record of such an important election. Moreover, it does not appear from that letter that the representatives of the various regional groups were present during the process of tracing the errors and validating the figures for the number of abstentions recorded and the number of States voting, as would be appropriate in any election with the appropriate guarantees.

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Lastly, Spain believes that what occurred makes it appropriate for the General Assembly to reflect on which aspects of the electoral procedures could be improved to benefit its own credibility as a main body of the Organization. We trust that the Office of the President, together with the Bureau and with the assistance of the Secretariat, will take the immediate action needed to correct the shortcomings detected in the electoral procedures.

I should be grateful if you would have the present letter circulated as a document of the General Assembly.

(*Signed*) Juan Antonio **Yáñez-Barnuevo**

United Nations A/62/847*

General Assembly

Distr.: General
27 May 2008
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Original: Spanish

Sixty-second session
Agenda item 113 (d)
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Despite the errors indicated and the procedure by which they were detected, Spain has no intention of challenging the results of the vote, having already expressed, and wishing to reiterate, its congratulations to its friends and partners France and the United Kingdom of Great Britain and Northern Ireland on their election, and firmly believing that they will work constructively in the Council to promote and protect human rights. In pursuit of that aim, Spain will lend them, and the members of the Council as a whole, its full support.

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It is surprising that errors as significant as those acknowledged in your letter of 22 May should have been made in preparing the record of such an important election. Moreover, it does not appear from that letter that the designated tellers from the various regional groups were present during the process of tracing the errors and validating the figures for the number of abstentions recorded and the number of States voting, as would be appropriate in any election with the appropriate guarantees.

* Reissued for technical reasons.

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Lastly, Spain believes that what occurred makes it appropriate for the General Assembly to reflect on which aspects of the electoral procedures could be improved to benefit its own credibility as a principal organ of the Organization. We trust that the Office of the President, together with the Bureau and with the assistance of the Secretariat, will take the immediate action needed to correct the shortcomings detected in the electoral procedures.

I should be grateful if you would have the present letter circulated as a document of the General Assembly.

(*Signed*) Juan Antonio **Yáñez-Barnuevo**

United Nations A/62/848–S/2008/346

General Assembly
Security Council

Distr.: General
28 May 2008

Original: English

General Assembly
Sixty-second session
Agenda item 120
Implementation of the resolutions of the United Nations

Security Council
Sixty-third year

Letter dated 23 May 2008 from the Permanent Representative of Greece to the United Nations addressed to the Secretary-General

Referring to the letter addressed to you by the President of the former Yugoslav Republic of Macedonia on 21 April 2008 (see A/62/826-S/2008/290), may I take this opportunity to update you on recent developments regarding this important issue.

You may recall that with resolutions 817 (1993) and 845 (1993) the Security Council proposed that the former Yugoslav Republic of Macedonia be admitted to membership in the United Nations under a provisional name, pending settlement of the issue. It further said that this issue needs to be resolved in the interest of the maintenance of peaceful and good-neighbourly relations in South-Eastern Europe. A process has been initiated, under your auspices, in order to find a mutually acceptable solution.

The decision to extend an invitation to the former Yugoslav Republic of Macedonia to join NATO as soon as a mutually acceptable solution to the name issue has been reached is a collective decision taken unanimously by the Heads of State and Government of the NATO member States at the Summit held in Bucharest on 3 April 2008. It is not a unilateral act of Greece, falling within the scope of article 11 of the Interim Accord, as is incorrectly implied in the letter addressed to you by the President of the former Yugoslav Republic of Macedonia.

Greece would like to note that the reason why it was not possible to extend, in Bucharest, an invitation for membership to the former Yugoslav Republic of Macedonia is that the latter, judged by her overall conduct vis-à-vis the name issue and towards a member of the Alliance, failed to meet the condition of the respect for the principle of peaceful and good-neighbourly relations. The presentation of this principle is included among the fundamental objectives of the Alliance, as stipulated in the North Atlantic Treaty, and, therefore, it is a prerequisite for accession. According to Security Council resolution 817 (1993), the name issue "needs to be resolved in the interest of the maintenance of peaceful and good-neighbourly relations in the region" and consequently, as long as this issue is not settled, at least

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one of the essential prerequisites for fully fledged membership in the Alliance, namely, the maintenance of peaceful and good-neighbourly relations, is not fulfilled.

In addition to the above essential elements, allegations that Greece has violated articles 11 and 5 of the Interim Accord, signed by Greece and the former Yugoslav Republic of Macedonia in 1995, are unfounded also from a purely legal point of view.

It is well known that the principle *pacta sunt servanda*, which is a fundamental principle of international law governing the contractual relations between States, is based on reciprocity, being a two-way road. Therefore, the Interim Accord cannot be implemented selectively and unilaterally, but as a whole and reciprocally, on the basis of the reciprocal application of the principle *pacta sunt servanda*.

In this context, it must be noted that the former Yugoslav Republic of Macedonia has been materially breaching the Interim Accord since its conclusion, by asserting and supporting territorial claims against Greece (material breach of articles 2, 3 and 4), by promoting and condoning irredentism (material breach of article 6, para. 2), by allowing and not discouraging acts inciting violence, hatred and hostility against Greece (material breach of article 7, para. 1), by continuing, without any justification, the inappropriate use of symbols pertaining to the historic and cultural patrimony of Greece despite the protest of the latter (material breach of article 7, para. 3) and by prohibiting historical research ("Law on Scientific and Research Activities", Government Gazette of the former Yugoslav Republic of Macedonia, volumes 13/96 and 29/02), which constitutes a material breach of article 8, paragraph 1. There is abundant and indisputable evidence corroborating these material breaches of the Interim Accord by the former Yugoslav Republic of Macedonia.

Even more so, the former Yugoslav Republic of Macedonia has violated both the letter and the spirit of article 5, paragraph 1, of the Interim Accord referring to the negotiations for the settlement of the name issue, because, by adopting a totally intransigent and inflexible stance, it has not complied with Security Council resolution 817 (1993), in which the Council urged the parties "to arrive at a speedy settlement of their difference". Since then, the position of the former Yugoslav Republic of Macedonia remains unchanged. In sharp contrast, Greece, showing her constructive and compromising spirit, has departed from her initial position and has accepted the idea of a compound name, which could also include the term "Macedonia". The juxtaposition of the attitudes of Greece and the former Yugoslav Republic of Macedonia as regards the willingness to achieve a compromise solution clearly shows which one of the two parties acts in compliance with the letter and the spirit of article 5, paragraph 1, and which of them does not.

In addition, it is the former Yugoslav Republic of Macedonia that has not respected the principle *pacta sunt servanda* with regard to the implementation of article 11, paragraph 1, of the Interim Accord and Security Council resolution 817 (1993), paragraph 2, which provides that the former Yugoslav Republic of Macedonia will be provisionally referred to for all purposes within the United Nations with this denomination, pending settlement of the difference that has arisen over the name of the State. In September 2007, Mr. Kerim, the President of the sixty-second session of the General Assembly, abusing his office, gave the floor to the President of the former Yugoslav Republic of Macedonia announcing him as "the President of the Republic of Macedonia", thus flagrantly breaching both the

letter and the spirit of the Interim Accord (article 11, para. 1) and Security Council resolution 817 (1993).

In the light of the above, the former Yugoslav Republic of Macedonia is not entitled to demand from Greece compliance with article 11, while she is constantly in breach of most of the provisions of the Interim Accord, by not fulfilling her obligations undertaken in the said treaty and violating thus the principle of *pacta sunt servanda*.

Notwithstanding the above, Greece remains committed to the Interim Accord, as well as to the relevant Security Council resolutions, and engaged in the negotiation process under United Nations auspices aimed at reaching a speedy solution to the name issue. It is in this spirit that Greece has renewed, in the aftermath of Bucharest, her invitation to the former Yugoslav Republic of Macedonia to work together, in order to find as soon as possible a mutually acceptable settlement, which will contribute to the improvement of neighbourly relations and the enhancement of regional security and peace, clearing thus the way of the latter towards the Euro-Atlantic and European institutions.

I should be grateful if the present letter could be circulated as a document of the General Assembly, under agenda item 120, and of the Security Council.

(*Signed*) John **Mourikis**
Ambassador
Permanent Representative